

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Britton et al.
Serial No.: To Be Assigned
Filing Date: Concurrently Herewith
Title: Cycloalkylidene Compounds As Modulators of Estrogen Receptor

Assistant Commissioner for Patents
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.47

One of the named inventors on the present application, Mr. Jonathan Britton, cannot be found or reached despite diligent efforts. Please consider this a Petition under 37 C.F.R. §1.47 which demonstrates the pertinent facts. Applicants hereby authorize the charge against Deposit Account 07-1392 for the required fee under §1.17.

SmithKline Beecham Corporation (hereinafter referred to as "GSK") is the assignee of the entire right and interests associated with the above-referenced application. The present application names eight (8) inventors. GSK secured the signatures of seven (7) of the named inventors on an oath/declaration under 37 C.F.R. §1.63. GSK has not been successful in obtaining a signed declaration from the remaining inventor, Jonathan Britton.

On March 13, 2004, Mr. Britton left employment at GSK. GSK first sent a request for signature on a declaration in compliance with 37 C.F.R. §1.63 to Mr. Britton's last known address: 8203 Green Lantern St., Apt. 305, Raleigh, North Carolina 27613. GSK sent a copy of the application, Declaration, Assignment, and Power of Attorney, along with a request for signature on September 22 2004 (see letter to Jonathan Britton, Attachment A; and mailing receipt, Attachment B). The package was delivered to the door of 8203 Green Lantern St., Apt. 305, Raleigh, North Carolina on September 23, 2004, as evidenced by the DHL tracking results attached hereto (Attachment C). Note, Mr. Britton's street name was mistyped in the letter mailed September 22, 2004, but the DHL tracking receipt (Attachment C) shows that the package was delivered to Mr.

Britton's correct address of record. The transmittal letter contained in the package delivered on September 23, 2004, instructed Mr. Britton to return the signed declaration to the applicant no later than October 8, 2004. To date, there has been no response to the delivery.

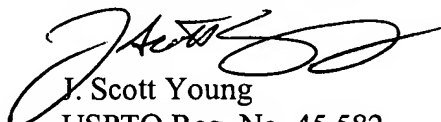
On October 13, 2004, GSK sent a copy of the application, Declaration, Assignment, and Power of Attorney, along with a request for signature to Keith O. Gregory, believed to be Mr. Britton's attorney, at Two Hannover Square, 434 Fayetteville Street Mall, Raleigh, North Carolina 27601 (see letter to Keith Gregory, Attachment D, and mailing receipt, Attachment E). Mr. Gregory contacted GSK and indicated that his law office was no longer aware of the whereabouts of Mr. Britton (see letter from the office of Keith Gregory, Attachment F).

Applicants, therefore, respectfully request that the USPTO recognize Mr. Britton as an unavailable inventor under 37 U.S.C. §116, and that the signing inventors be deemed to be making this application on behalf of Mr. Britton.

In the alternative, Applicant requests that this Petition be accepted under 35 U.S.C. §118. GSK asserts that Mr. Britton was and is under an obligation to assign the above-referenced patent application to GSK by virtue of his Conditions of Employment, signed April 22, 2002 (copy attached as Attachment G). GSK stands to be irreparably harmed if not allowed to make this application without the signature of Mr. Britton.

If additional information is needed, please contact Applicants' agent as detailed below for expedited handling.

Respectfully submitted,


J. Scott Young
USPTO Reg. No. 45,582

Date: 20 JAN 2006
GlaxoSmithKline
P.O. Box 13998
Durham, NC 27709
919-483-8160
919-483-7988 (fax)



GlaxoSmithKline
Five Moore Drive
PO Box 13398
Al-B4708
Research Triangle Park
North Carolina 27709-3398
Tel. 919 483 7988
www.gsk.com

Marilyn Eldridge
Patent Paralegal
Corporate Intellectual Property
Dir. 919 483 1007
mle10058@gsk.com

Attachment A

LAP20

10/565296
20 JAN 2006



GlaxoSmithKline
PO Box 13398
Five Moore Drive
Research Triangle Park
North Carolina 27709-3398
Tel. 919 483 2100
www.gsk.com

Via DHL

Mr. Jonathan Britton
8203 Glen Lantern, Apt. 305
Raleigh, NC 27613

Re: International Patent Application entitled *Chemical Compounds*

Dear Mr. Britton,

As a named inventor for the above-referenced patent application (copy enclosed for your files), there are several standard documents that require your signature. Below is a list of the documents with instructions.

1. PCT Power of Attorney. The Power of Attorney enables GSK to prosecute the international application. Please sign and date in the lower right corner.
2. Assignment. This assignment is recorded with the Patent Office. Please sign and date where indicated.
3. The Declaration. The Declaration is enclosed in anticipation of the U.S. filing at a later date. It states that you are an inventor of the subject matter which is claimed in the enclosed specification. Please sign and date in the space provided below your name.

I have enclosed a return envelope for your convenience. Please sign the enclosed documents and return them to me by **October 8, 2004** for timely filing with the Patent Office.

My card is enclosed should you have any questions.

Thank you.

Best Regards,

Marilyn Eldridge
Patent Paralegal

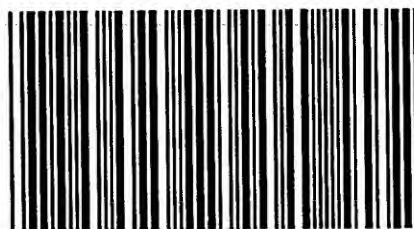
Cc: Amy H. Fix, Esq.

Label No.
765 65

Attachment B

**USA
Overnight**

Destination:

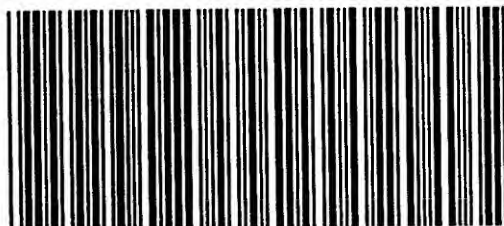
CEWG

Acct: 770024497

Date: 09/22/2004

Ref: PR60351WO

Waybill:

8843108256

Routing:

9Z/RRH

Weight: 1.0 lbs.

Origin: RDU

Pcs: 1

FR:GLAXOSMITHKLINE

Marilyn Eldridge

2512 S TRICENTER BLVD

DURHAM, NC

27713 United States Of America

Ph: (919) 483-1007 Fax:

TO:Jonathan Britton

8203 Glen Lantern

Apt. 305

Raleigh, NC

27613 United States Of America

Ph: (919) 483-1007 Fax:

Description: patent documents

Fold here. Affix to package using DHL plastic pouch.

Cancel Shipment

Next Step

I/we have agreed that DHL's standard terms apply to this shipment and limit DHL's liability for loss or damage to US \$ 100. I/we understand that shipment value protection is available on request, for an extra charge. I/we agree to pay all charges if the recipient or third party does not pay. I/we understand that DHL DOES NOT TRANSPORT CASH.

SIGNATURE: Marilyn Eldridge

DHL Worldwide Express, Inc., 1200 South Pine Island Rd, Suite 600, Plantation, FL 33324 <http://www.dhl.com> 1-800-CALL-DHL (in the USA only)

Web Shipping ID - 131297

FOR USE BY DHL ORIGIN PROCESSING
(Drop Box ID - Additional Charges - Transport Collect Label #)Label No.
US

[LOGIN](#) [REGISTER](#)[Customer Service](#)[Domestic Services](#)[International Services](#)[Small Business Center](#)[Technology Tools](#)[About DHL](#)[Ship](#) [Track](#) [Transit Times](#) [Rates](#) [Pickups](#) [Locations](#) [Suppl](#)
[By Number](#) [By Reference](#) [By Email](#) [Signature P.O.D.](#) [Sky Courier Shipments](#)**TRACKING RESULTS: DETAIL**

Tracking Number: 8843108256

Shipment Summary:

Current Status: Shipment delivered.
Delivered on: 9/23/04 11:44 am
Delivered to: Residence Door
Signed for by: LD FD -8203 305 GREENLT

Shipment History:

DATE	TIME	ACTIVITY AND COMMENTS	LOCATION
9/23/04	11:44 am 8:35 am	Shipment delivered. Arrived at DHL facility.	Raleigh, NC Raleigh, NC
9/22/04	6:59 pm 4:23 pm	Departing origin. Picked Up by DHL	Morrisville, NC Shipper's Door

Shipper:

GLAXOSK (GLAX251713-AIR)
Durham, NC 27713
United States

Receiver:

Raleigh, NC 27613
Us

Shipment Detail:

Service: Next Day AM
Special:
Weight:
Pieces:

Ship Type:
Description: PATENT DOCUMENTS
Shipper's Reference: PR60351WO

[New Search](#)

- ◆ Tracking detail provided by DHL: 10/11/2004, 7:17:18 am pt.
- ◆ For assistance, please [contact us](#).
- ◆ You are authorized to use DHL tracking systems solely to track shipments tendered by or for you to use of DHL tracking systems and information is strictly prohibited.

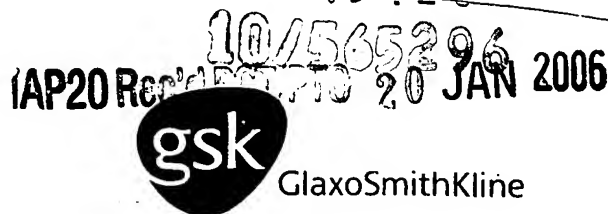
© DHL | [Privacy Policy](#) | [Contact Us](#) | [Site Map](#) | [DHL Global/Corporate Information](#) | [Home](#)

Label No.
US

<http://track.dhl-usa.com/TrackByNbr.asp>

10/11/2004

Attachment D



October 13, 2004

Keith O. Gregory, Esq.
Two Hannover Square
434 Fayetteville Street Mall, Ste. 2310
Raleigh, NC 27601

GlaxoSmithKline
PO Box 13398
Five Moore Drive
Research Triangle Park
North Carolina 27709-3398
Tel. 919 483 2100
www.gsk.com

Re: Jonathon Britton
Patent Application documents

Dear Mr. Gregory,

GlaxoSmithKline recently filed an international patent application entitled "Chemical Compounds" for which Jonathon Britton is a named inventor. As such, we need his signature on several documents that enable us to prosecute the international application and, in due course, the U.S. application.

I sent the documents to Mr. Britton at his address of record with Glaxo in mid-September, but have not yet received the signed documents from him. To comply with U.S. patent law, we have to make every effort to contact Mr. Britton and secure his signature. Accordingly, Zack Ward suggested I forward the documents to you for delivery to Mr. Britton.

Enclosed are the PCT Power of Attorney, the Assignment and the United States Declaration and Power of Attorney, together with the specification as filed for Mr. Britton's records. Please ask Mr. Britton to sign the documents where indicated and return to me in the return envelope provided on or before **October 28, 2004**.

Your assistance is greatly appreciated. If you have any questions, please do not hesitate to contact Amy Fix, the attorney prosecuting the subject application, at 483-8911.

Thank you.

Best Regards,

Marilyn Eldridge
Marilyn Eldridge
Patent Paralegal

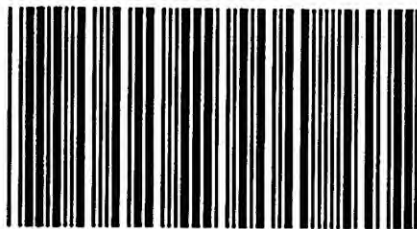
Cc: Amy H. Fix, Esq.

Express Mail Label No.
EV 332064765 US

Attachment E

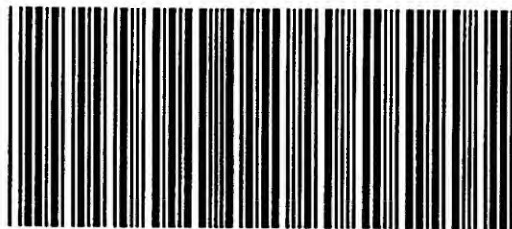
**USA
Overnight**

Destination:

RGHG**DHL**
IAP20 REC'D 20 JAN 2006
Acct: 770024497
Date: 10/13/2004

Ref: PR60351WO

Waybill:

8846935005

Routing:

9Z/RRH

Weight: 1.0 lbs.

Origin: RDU

Pcs: 1

FR:GLAXOSMITHKLINE
Marilyn Eldridge
2512 S TRICENTER BLVD
DURHAM, NC
27713 United States Of America
Ph: (919) 483-1007 Fax:**TO:Keith Gregory, Esq.**
Two Hannover Square
434 Fayetteville Street Mall
Suite 2310
Raleigh, NC
27601 United States Of America
Ph: (919) 832-3148 Fax:

Description: patent application documents

Fold here. Affix to package using DHL plastic pouch.

I/we have agreed that DHL's standard terms apply to this shipment and limit DHL's liability for loss or damage to US \$ 100. I/we understand that shipment value protection is available on request, for an extra charge. I/we agree to pay all charges if the recipient or third party does not pay. I/we understand that DHL DOES NOT TRANSPORT CASH.

SIGNATURE: Marilyn Eldridge

DHL Worldwide Express, Inc., 1200 South Pine Island Rd, Suite 600, Plantation, FL 33324 <http://www.dhl.com> 1-800-CALL-DHL (in the USA only)

Web Shipping ID - 131297

FOR USE BY DHL ORIGIN PROCESSING
(Drop Box ID - Additional Charges - Transport Collect Label #)Express Mail Label No.
EV 332064765 US

10/565296

Attachment G



Conditions of Employment

IAP20RGG-000000 20 JAN 2006

Recognizing that the success of the business of GlaxoSmithKline, or its business sectors, (hereinafter referred to as "the Company") depends on all employees: (i) adhering to high standards of honesty and integrity; (ii) complying with all legal requirements and company policies; and (iii) protecting marks, copyrights, patents, inventions, discoveries and information held or utilized by the Company, I recognize that, during my employment I may be involved in such matters, and in consideration of my employment by the Company and intending to be legally bound, hereby agree as follows:

1. That I shall comply with all legal requirements and company policies and conduct all activities with honesty and integrity in accordance with the Company's Code of Conduct. I acknowledge receiving either copies of the GSK employee policies and/or information concerning the Intranet address for the Company's Employee Policies and Procedures and agree to read and adhere to them at all times during my employment with GlaxoSmithKline.
2. That during the term of my employment, I shall not engage in any activity in competition with or against the best interests of the Company and avoid all conflicts of interest with the Company or the appearance thereof.
3. That I will not, during or at any time after the termination of my employment with the Company, use for myself or for any other companies or individuals any secret or confidential information, knowledge or data of or about the Company or its business or that of or about third parties generated by me or divulged to me during the period of my employment with the Company. I understand and agree that all such secret or confidential information, knowledge or data includes, but, is not limited to, that which is of a technical, commercial or strategic nature.
4. To promptly inform the Company of all inventions, discoveries, designs, developments, improvements and innovations, whether patentable or not (hereinafter referred to collectively as "Inventions"), conceived or made by me (solely or in concert with others) which:
 - a. relate in any manner to the existing or contemplated business or research activities of the Company;
 - b. are suggested by or result from my work with the Company; or
 - c. result from the use of the Company's time, materials, information or facilities even if made or conceived during other than working hours.
5. That all such inventions and all descriptions, sketches, drawings and other documents relating to the inventions shall be the exclusive property of the Company. I will sign all documents, which the Company considers necessary to vest in the Company title to the Inventions and their associated right of priority and patents without charge. Further, I will assist the Company in obtaining and maintaining full rights and title to such inventions.
6. That all works of authorship, computer programs, code, databases and data collections, icons, domain names, design plans, flow charts, designs, notes, drawings, marketing plans, product plans, writings and all other works subject to copyright protection (hereinafter referred to collectively as "Works of Authorship"), made by me (solely or in concert with others) and related in any manner to the existing or contemplated business or research efforts of the Company shall be WORKS MADE FOR HIRE, the entire right, title and interest of, which shall vest, reside and be the exclusive property of the Company for use in any medium. If a Work of Authorship does not qualify as a work made for hire, I agree to assign

10/565296

IAP20 Rec'd 20 JAN 2006

all of my right, title and interest in the Work of Authorship to the Company effective from the date of creation, to be used in any way, with any changes and without attribution in any medium.

7. That upon termination of my employment, or any other time prior to termination and at the Company's request, I agree to deliver promptly to the Company all drawings, blueprints, manuals, letters, notes, notebooks, report sketches, formulae, computer programs, data or information and similar items, memoranda, customer lists, and all other materials and all copies thereof relating in any way to the Company's business in any way obtained or prepared by me during the period of my employment with the Company which are in my possession or under my control. I further agree that I will not make or retain any copies of the foregoing and will so represent to the Company upon termination of my employment.
8. To record descriptions of all my work in the manner directed by the Company. Whether compiled or kept at the Company's premises, all such records and copies of them together with all samples and experimental materials shall be the exclusive property of the Company and shall be returned upon termination of my employment.
9. That I will not reproduce, share or use software or its related documentation unless expressly authorized by the software owner or licensee.
10. That this document is not a contract guaranteeing employment for any specific duration. The Company or I may terminate this relationship at any time for any reason with or without cause or notice. I understand that no supervisor, manager, or representative of GlaxoSmithKline, other than the Chief Executive Officer, has the authority to enter into any agreement with me for employment for any specified period or to make any promises or commitments with guarantee continued employment. Any employment agreement entered into by the Chief Executive Officer shall not be enforceable unless it is in writing and approved by the Chairman of the Board of GlaxoSmithKline.
11. That this Agreement shall inure to the benefit of and may be enforced by the Company, its successors and assigns, and shall be binding upon me, my executors, administrators, legatees, distributees, and other successors in interest, and may not be changed in whole or in part except in a writing, signed by a duly authorized officer of the Company and myself.

Jonathan E. Britton

Name (Please Print)

Jonathan E. Britton

Signature

4/22/02

Date

4/22/02

Date of Hire / Rehire

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☒ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.